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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ROBERT M. DUKOWITZ,

9 Petitioner,

10 v.

11 TIMOTHY WENGLER, et al.,

12 Respondents.

Case No. C08-5142BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation of the
14 Honorable Karen L. Strombom, United States Magistrate Judge. Dkt. 24. Judge Strombom
15 recommends that Petitioner's habeas petition be denied. *Id.*, 24-25.

16 On December 5, 2008, Petitioner filed an objection to the Report and
17 Recommendation. Dkt. 25. Petitioner maintains that his constitutional right to a speedy trial
18 was violated because he was coerced into signing a speedy trial waiver. *Id.* at 2. He further
19 maintains that the state and trial court destroyed court records that contain the transcript of
20 an August 26, 1996, hearing where this alleged coercion took place. *Id.* Finally, Petitioner
21 contends that he was prejudiced by the delay. *Id.* at 7. Petitioner did not describe how he was
22 prejudiced, but is apparently arguing that any delay constitutes prejudice. *Id.*


23 Petitioner's habeas petition is denied. Petitioner's objections fail to raise any issues
24 that were not already addressed in the Report and Recommendation. Judge Strombom
25 correctly concluded that Petitioner has failed to demonstrate that a balancing of the relevant
26 factors as set out in *Barker v. Wingo*, 407 U.S. 514 (1972), indicate a violation of his right to
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1 a speedy trial. *See* Dkt. 24, 18-19 (Report and Recommendation) (applying the *Barker*
2 factors and concluding that even assuming Petitioner had been coerced into signing a speedy
3 trial waiver, Petitioner nonetheless failed to demonstrate prejudice and failed to request a
4 trial date within a time period he perceived to be the speedy trial period).

5 The Court having considered the Report and Recommendation, Petitioner's
6 objections, and the remaining record, does hereby find and order that:

- 7 (1) The Court adopts the Report and Recommendation; and
8 (2) Petitioner's habeas petition is **DENIED** and this action is **DISMISSED**
9 **WITH PREJUDICE.**

10 DATED this 23rd day of December, 2008.

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13 BENJAMIN H. SETTLE
14 United States District Judge
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